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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,154

10/11/2005

Hiromu Ueshima

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OSHA LIANG L.L.P.  
1221 MCKINNEY STREET  
SUITE 2800  
HOUSTON, TX 77010

EXAMINER

NISSAN, BARAK

ART UNIT

PAPER NUMBER

4117

NOTIFICATION DATE

DELIVERY MODE

11/13/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@oshaliang.com  
buta@oshaliang.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/552,154	UESHIMA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Barak Nissan	4117	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21, 23-27 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21, 23-27 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/11/2005</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This communication is in response to Application No. 10/552,154, filed 10/11/2005, claims 22 and 28 were cancelled and claims 1-21, 23-27 and 29 have been examined.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention does not fall within at least one of the four categories of patent eligible subject matter recited in 35 U.S.C. 101, namely, process, machine, manufacture, composition of matter or improvements thereof.

In this case, for example, the claims 1-19 appear to be directed to a system, comprising a server which delivers data through a network which a client receives and a writer unit, as such it is unclear, how does this fall under a machine category [presuming that is what applicant attempts to claim]. Correction is required.

#### ***Claim Rejection under 35 USC 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In this case, in claim 1 the claimed clause “of said recordable medium, in which data is not written, under a once only restriction” is unclear. For purposes of examination, the claimed clause will be interpreted as writing only once writetable storage area of said recordable medium where data has not been written. Furthermore in claim 19, the claimed clause “written to said recordable medium is initially written to said recordable medium” unclear. For purposes of examination, the phrase will be interpreted as written to said recordable medium is already written to said recordable medium.

#### ***Claim Objection***

5. The following claim is objected to due to the following noted minor informality. Claim 25 recites the limitation the recordable medium in the first line of the claim. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 6, 9, 12, 18-21, and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Moritomo (US 7,206,821).

8. Regarding claim 1, Moritomo discloses an invention related to a data delivery (e.g. transmission) system (abstract), the system (e.g. Fig. 1) further comprising:

a server (200) that delivers (e.g. downloads) data through a network (10) (Fig. 1);  
a client terminal (100) that receives said data as delivered (col 1 lines 13-15); and  
a writer unit (107 hard disk) that writes said data received by said client terminal to a recordable medium (column 4, line 66-column 5, line 11),  
wherein said writer unit writes data in an area of storage areas of said recordable medium (col 1 lines 18-21), in which data is not written, under a once only restriction, i.e. writing data once in a storage area of the storage areas of said recordable medium where data has not been written (col 8 lines 39-44).

9. Regarding claim 6, Moritomo teaches the data delivery system, wherein said client terminal transmits identification information (i.e. information regarding storage drive) of said recordable medium to said server (col 7 lines 32-48).

10. Regarding claim 9, Moritomo teaches the data delivery system, wherein said client terminal and said writer unit are separately provided and connected to each other by a wired or wireless link (col 2 line 54-63).

11. Regarding claim 12, Moritomo teaches the data delivery system as claimed in claim 1, wherein said client terminal and said writer unit are integrally provided e.g. on the same computing device (column 2, lines 54-column 3, line 32).

12. Regarding claim 18, Moritomo teaches wherein said recordable medium is a recordable medium to which data can only be written once in an area in which no data is written yet (col 8 lines 39-44).

11. Regarding claim 19, wherein data for use in processing the data that is delivered and written to said recordable medium is initially (i.e. already) written to said recordable medium (col 8, lines 18-23).

13. Regarding claim 20, this apparatus claim in the form of an “acquisition device” comprises substantially the same components and/or steps, acts or functions discussed on the system claim 1, as such same rationale of rejection is applicable.

14. Regarding claim 21, this apparatus claim comprises substantially the same components and/or steps, acts or functions discussed on the system claim 1, as such same rationale of rejection is applicable.

15. Regarding claim 23, this process (method) claim in the form of a “data acquisition method” comprises substantially the same components and/or steps, acts or functions discussed on the system claim 1, as such same rationale of rejection is applicable.

***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moritomo (US 7,206,821) in view of Heemskerk (US 6,031,815).

18. Regarding claim 2, Moritomo teaches wherein said writer unit writes data in the area of the storage areas of said recordable medium in which data is not written yet (column 8, lines 18-23, step 326 of Fig. 6A and steps 368, 386 of Fig. 6C), however does not disclose where the data written is in units of a predetermined size under the once only restriction.

Heemskerk teaches data in units of a predetermined size (i.e. divided the track into areas, so called sectors) under the once only restriction (e.g. read-only CD) (col 4 lines 19-26).

It would have been obvious to one of ordinary skilled in the art at the time of invention was made given the teachings of Moritomo and Heemskerk before them, to modify MORITOMO system to include the units of a predetermined size under the once only restriction taught in Heemskerk. One would be motivated to combine these teachings because sectors on a disk are predetermined to how much space of data can fit within the sector when written.

19. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moritomo (US 7,206,821) in view of Turpin et al. (US 6,144,992).

20. Regarding claim 3, Moritomo teaches the data delivery system according to claim 1, however does not disclose wherein said client terminal transmits predetermined information to said server when the write operation to said recordable medium is successfully completed.

Turpin discloses wherein said client terminal (e.g. master computer, col 8 line 1) transmits predetermined information to said server (col 7 lines 9-12, e.g. slave computer) when the write operation to said recordable medium is successfully completed (i.e. when the transferring of information from master (client terminal) to slave (server) is complete and the complete track is flushed to disk, (col 9 lines 9-11) the “Goodbye” message (state 410) is sent back to master, col 8 lines 47-53).

It would have been obvious to one of ordinary skilled in the art at the time of invention was made given the teachings of Moritomo and Turpin before them, to modify MORITOMO system to include transmission from client to server when data is fully completed taught in Turpin. One would be motivated to combine these teachings because one in the ordinary skill would know that data is transferred from client to server or vise versa and after showing an indication when data is completely written on the recordable medium.

21. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moritomo (US 7,206,821) in view of Hsu et al. (US 2004/0199687).



22. Regarding claim 5, Moritomo discloses the data delivery system according to claim 1, however does not disclose wherein said client terminal erases said data which is temporarily saved for writing when the write operation to said recordable medium is successfully completed.

Hsu teaches client terminal (e.g. user device) erases said data (i.e. pictures) which is saved (i.e. stored onto card) for writing when the write operation to said recordable medium (e.g. cd-r) is successfully completed (paragraph. 0068).

It would have been obvious to one of ordinary skilled in the art at the time of invention was made given the teachings of Moritomo and Hsu before them, to modify MORITOMO system to include the device that erases data which is temporarily saved for writing when the write operation to said recordable medium is successfully completed taught in Hsu. One would be motivated to combine these teachings because the device can automatically erase the data after is has completely been burned onto a disk.

23. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moritomo, as applied to claim 1, in view of Kobayashi et al. (US 2005/0196129).

24. Regarding claim 4, Moritomo teaches the data delivery system as described above in claim 1, wherein said server transmits said data to said client terminal. However does not teach when information about said recordable medium indicates a free space having a size larger than that of said data as requested for delivery.

Kobayashi discloses indication of free space having a size larger than that of data for delivery (paragraph 0051). Particularly, teaching the step of comparing the free space of hard

disk against the size of the data to be recorded. If the size of the data to be recorded is not larger than the free space, data is written by a writing unit by issuing an indication to write instruction.

It would have been obvious to one of ordinary skilled in the art at the time of invention was made given the teachings of Moritomo and Kobayashi before them, to modify MORITOMO system to include indication of the free space having a size larger than that of data being delivered onto the recordable medium taught in Kobayashi. One would be motivated to combine these teachings because is it very important to know how much free space is needed on the disk to store any content data.

25. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moritomo, as applied to claim 1, in view of Okamura (US 2004/0133550).

26. Regarding claim 8, Moritomo discloses the data delivery system according to claim 1, however does not emphasize wherein said client terminal displays a message that the data which is about to be written to said recordable medium matches data which has already been written to said recordable medium when such a match occurs.

Okamura discloses client terminal displays a message that the data which is about to be written to said recordable medium (e.g. folder on the hard drive, Fig. 5) matches data which has already been written to said recordable medium when such a match occurs (paragraph 0033).

It would have been obvious to one of ordinary skilled in the art at the time of invention was made given the teachings of Moritomo and Okamura before them, to modify MORITOMO system to include a warning message indicating the same data is overwritten on recordable

medium taught in Okamura. One would be motivated to combine these teachings because a message being displayed on the computer would help the user know that the same data is being written on the hard drive or disk.

27. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moritomo, as applied to claim 1, in view of Keller et al. (US 6,587,403).

28. Regarding claim 15, Moritomo teaches wherein said data requested by said client terminal to said server is music data (Moritomo, col 1 lines 14-15), however does not teach wherein said client terminal displays information about music pieces already written to said recordable medium and a number of music pieces which can be written to a free space of said recordable medium.

Keller teaches client terminal displays information about music pieces already written to said recordable medium (e.g. compact disc recorder displays music data that was written on disk, Fig. 8) and a number of music pieces which can be written to a free space of said recordable medium (col 15 lines 11-22).

It would have been obvious to one of ordinary skilled in the art at the time of invention was made given the teachings of Moritomo and Keller before them, to modify MORITOMO system to include information that was already written on disk being displayed by the recorder taught in Keller. One would be motivated to combine these teachings because the music pieces that is being displayed show how much space was used on the disk and how much free space is left, referring to figure 8 in Keller teachings.

29. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moritomo, as applied to claim 1, in view of Keller et al. (US 6,587,403) in further view of Hensley (US 2004/0111250).

30. Regarding claim 7, both teachings of Moritomo and Keller teaches the data delivery system, wherein said client terminal displays information about the data already written to said recordable medium (Keller, Fig. 8, e.g. displayed music tracks on cd), however, does not disclose a maximum size of data which can be written to a free space of said recordable medium.

Hensley discloses a maximum size of data which can be written to a free space of a recordable medium (Hensley, paragraph 0021).

It would have been obvious to one of ordinary skilled in the art at the time of invention was made given the teachings of both Moritomo and Keller with further teachings of Hensley before them, to modify MORITOMO system to include having a maximum size of data written to the free space of the recordable medium taught in Hensley. One would be motivated to combine these teachings because is it very important to know how much the maximum size of free space is needed on the disk to store any content data.

31. Claims 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moritomo as applied to claim 9, in view of DiscJuggler User's Guide (January 24, 2003).

32. Regarding claim 10, Moritomo discloses the data delivery system as claimed in claim 9, however does not teach wherein said client terminal displays a first predetermined indication when said writer unit is not connected to said client terminal and a second predetermined indication when said recordable medium is not connected to said writer unit.

DiscJuggler User's Guide discloses wherein said client terminal displays a first predetermined indication (error message) when said writer unit (e.g. writing drive) is not connected to said client terminal (e.g. computer) and a second predetermined indication when said recordable medium (e.g. cd disk) is not connected to said writer unit (page 240).

It would have been obvious to one of ordinary skilled in the art at the time of invention was made given the teachings of Moritomo and DiscJuggler User's Guide, to modify Moritomo teachings to include an indication that the writer unit is not connected to the device or the recordable medium taught in DiscJuggler User's Guide. One would be motivated to combine these teachings because there should be an indication where the writer unit is disconnected to the driver of the fact that the data written is unable to read from the disk.

33. Regarding claim 13, this claim comprises client terminal that displays a indication that recordable medium not connected to writer unit substantially same steps discussed in claim 10, thereby same rationale of rejection is applicable.

34. Claims 11, 14, 16, 17, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moritomo in view of Kato et al. (US 5,886,275) (referred to Kato hereafter).

35. Regarding claim 11, Moritomo teaches the data delivery system as claimed in claim 9, as described above, however Moritomo does not disclose wherein said writer unit is implemented within a microphone type karaoke device.

Kato teaches wherein said writer unit (e.g. disk drive) is implemented within a microphone type karaoke device (audio mixer, Fig. 6).

It would have been obvious to one of ordinary skilled in the art at the time of invention was made given the teachings of Moritomo and Kato, to modify Moritomo teachings to include microphone type karaoke device taught in Kato. One would be motivated to combine these teachings because in order to record voice signals onto a CD disk you would need a karaoke device that has a microphone.

36. Regarding claim 14, wherein said data requested by said client terminal to said server is music data (Kato, abstract).

37. Regarding claim 16, wherein said data requested by said client terminal to said server is music data and image data of karaoke (Kato, abstract).

38. Regarding claim 17, wherein said data requested by said client terminal to said server is game data (Kato, col 9 lines 53-55).

39. Regarding claim 26, Moritomo and Kato teach the content delivery system (i.e. host computer), further teaching comprising:

wherein said content karaoke data (Kato, abstract), and said content using system is a karaoke playback system (Kato, e.g. karaoke terminals, Fig. 1) which plays back the karaoke data (Kato, col 10 line 5).

40. Claims 27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moritomo in view of Kato et al. (US 5,886,275) (referred to Kato hereafter) in further of Sushima et al. (US 2004/0210646) .

41. Regarding claim 27, Moritomo-Kato teach wherein said writer unit (e.g. hard drive) is implemented within said karaoke playback system (Kato, abstract), however both teachings do not disclose second proprietary interface serves also as said third proprietary interface.

Sushima discloses a second proprietary interface serves also as said third proprietary interface (SCSI, Fig. 2a, paragraph 0037, e.g. SCSI card serves as an interface).

It would have been obvious to one of ordinary skilled in the art at the time of invention was made given the teachings of both Moritomo and Kato with further teachings of Sushima, to modify they're teachings to include the proprietary interface to serve as another interface taught in Sushima. One would be motivated to combine these teachings because any type of interface network card to used to connect to writer unit such as a hard drive to download any kind of music data to play on the playback system.

42. Regarding claim 29, Moritomo-Kato teach a content delivery system (i.e. host computer) with futher teachings of Sushima, the system comprising:

a memory cartridge (Moritomo, e.g. hard disk) having a first proprietary interface (e.g. network interface) for accessing data contained therein (Kato, col 5 lines 61-62);

a content using system (Kato, e.g. karaoke terminals, Fig. 1) which is distributed to a user of said content and provided with a second proprietary interface compatible with and connectable to said first proprietary interface of said memory cartridge for reading content (Moritomo, col 3 lines 37-49 col 5 lines 2-28, EIDE and SCSI are the interfaces or buses which are known in the art used to read the data from the memory cartridge to the playback system, Fig. 3A and 3B) there from and using the content;

a content server connected to the Internet and providing a content delivery service on the Internet (Kato, col 3 line 23-38); and

a writer (Kato, e.g. CD-R or disk drive, col 9 line 66- col 10 line 10) having a data communication facility for downloading content (Moritomo, communication interface, Fig. 2, e.g. used to download information a computer) from said content server through the Internet (Kato, col 3 line 23-38), provided with a third proprietary interface compatible (e.g. SCSI) with and connectable to said first proprietary interface, and configured to write the content to said memory cartridge (Moritomo, col 13 lines 57-58, e.g. storage medium).

43. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moritomo (US 7,206,821) in view of Sako (US 5,757,752).

44. Regarding claim 24 and 25, Moritomo teaches a recordable medium to which the data delivered by the server through the network is written by the writing device as set forth in claim 21, as described in claim 1, wherein the data is written under a once only restriction in a free area from among said predetermined number of storage areas (e.g. CD-R).



However, Moritomo does not disclose wherein a storage space of said recordable medium is divided into a predetermined number of storage areas.

Sako discloses recordable medium having number of storage area space (col 2 lines 54-64).

It would have been obvious to one of ordinary skilled in the art at the time of invention was made given the teachings of Moritomo and Sako, to modify Moritomo teachings to include the number of storage areas of a cd taught in Sako. One would be motivated to combine these teachings because disks are recordable storage mediums that have divided sectors of free space to store data.

45. Regarding claim 25, both the teachings of Moritomo and Sako discloses a server (Moritomo, 200) that delivers data (e.g. downloads) to be written to the recordable medium through a network (10) (Fig. 1) (col 1 lines 13-25),

wherein said data is delivered in units of a predetermined storage area of said recordable medium (Sako, col 2 lines 54-64).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barak Nissan whose telephone number is (571)-270-3632. The examiner can normally be reached on Mon-Thurs 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beatriz Prieto can be reached on (571)-272-3902. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

B.N.

Patent Examiner

/Prieto B./  
Supervisory Patent Examiner, Art Unit 4117